

Department of Energy

§ 590.401

evidence, requiring the advance submission of written testimony and exhibits, ruling on motions, determining the format, directing that briefs be filed with respect to issues raised or to be raised during the course of the conference, oral presentation or trial-type hearing, questioning witnesses, taking reasonable measures to exclude duplicative material, and placing limitations on the number of witnesses to be called by a party.

§ 590.315 Witnesses.

(a) The Assistant Secretary or presiding official may require that the direct testimony of witnesses in trial-type hearings be submitted in advance of the hearing and be under oath, and in written form.

(b) Witnesses who testify in trial-type hearings shall be under oath or affirmation before being allowed to testify.

(c) Witnesses subpoenaed pursuant to § 590.306 shall be paid the same fees and mileage as paid for like services in the District Courts of the United States.

(d) Witnesses subpoenaed pursuant to § 590.307 shall be paid the same fees and mileage as paid for like services in the District Court of the United States.

[54 FR 53531, Dec. 29, 1989; 55 FR 14916, Apr. 19, 1990]

§ 590.316 Shortened proceedings.

In any proceeding where, in response to a notice of application or notice of procedures, if applicable, no party files a motion requesting additional procedures, including the right to file written comments, or the holding of a conference, oral presentation, or trial-type hearing, or where the Assistant Secretary determines that such requested additional procedures are not required pursuant to §§ 590.310, 590.311, 590.312 and 590.313, the Assistant Secretary may issue a final opinion and order on the basis of the official record, including the application and all other filings. In any proceeding in which the Assistant Secretary intends to deny the application or grant the application with the attachment of material conditions unknown to, or likely to be opposed by, the applicant, solely on the basis of the application and responses to the notice of application or notice of

procedures, if applicable, without additional procedures, the Assistant Secretary shall advise the parties in writing generally of the issues of concern to the Assistant Secretary upon which the denial or material conditions would be based and provide them with an opportunity to request additional procedures pursuant to §§ 590.310, 590.311, 590.312 and 590.313.

§ 590.317 Complaints.

(a) Any person may file a complaint objecting to the actions by any other person under any statute, rule, order or authorization applicable to an existing import or export authorization over which FE has jurisdiction. No particular form is required. The complaint must be filed with FE in writing and must contain the name and address of the complainant and the respondent and state the facts forming the basis of the complaint.

(b) A complaint concerning an existing import or export authorization shall be served on all parties to the original import or export authorization proceeding either by the complainant or by FE if the complainant has made a good faith effort but has been unable to effect service.

(c) The Assistant Secretary may issue an order to show cause under § 590.401, or may provide opportunity for additional procedures pursuant to §§ 590.310, 590.311, 590.312, or § 590.313, in order to determine what action should be taken in response to the complaint.

Subpart D—Opinions and Orders

§ 590.401 Orders to show cause.

A proceeding under this part may commence upon the initiative of the Assistant Secretary or in response to an application by any person requesting FE action against any other person alleged to be in contravention or violation of any authorization, statute, rule, order, or law administered by FE applicable to the import or export of natural gas, or for any other alleged wrong involving importation or exportation of natural gas over which FE has jurisdiction. Any show cause order issued shall identify the matters of interest or the matters complained of

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that the Assistant Secretary is inquiring about, and shall be deemed to be tentative and for the purpose of framing issues for consideration and decision. The respondent named in the order shall respond orally or in writing, or both, as required by the order. A show cause order is not a final opinion and order.

§ 590.402 Conditional orders.

The Assistant Secretary may issue a conditional order at any time during a proceeding prior to issuance of a final opinion and order. The conditional order shall include the basis for not issuing a final opinion and order at that time and a statement of findings and conclusions. The findings and conclusions shall be based solely on the official record of the proceeding.

§ 590.403 Emergency interim orders.

Where consistent with the public interest, the Assistant Secretary may waive further procedures and issue an emergency interim order authorizing the import or export of natural gas. After issuance of the emergency interim order, the proceeding shall be continued until the record is complete, at which time a final opinion and order shall be issued. The Assistant Secretary may attach necessary or appropriate terms and conditions to the emergency interim order to ensure that the authorized action will be consistent with the public interest.

§ 590.404 Final opinions and orders.

The Assistant Secretary shall issue a final opinion and order and attach such conditions thereto as may be required by the public interest after completion and review of the record. The final opinion and order shall be based solely on the official record of the proceeding and include a statement of findings and conclusions, as well as the reasons or basis for them, and the appropriate order, condition, sanction, relief or denial.

§ 590.405 Transferability.

Authorizations by the Assistant Secretary to import or export natural gas shall not be transferable or assignable, unless specifically authorized by the Assistant Secretary.

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§ 590.406 Compliance with orders.

Any person required or authorized to take any action by a final opinion and order of the Assistant Secretary shall file with FE, within thirty (30) days after the requirement or authorization becomes effective, a notice, under oath, that such requirement has been complied with or such authorization accepted or otherwise acted upon, unless otherwise specified in the order.

§ 590.407 Reports of changes.

Any person authorized to import or export natural gas has a continuing obligation to give the Assistant Secretary written notification, as soon as practicable, of any prospective or actual changes to the information submitted during the application process upon which the authorization was based, including, but not limited to, changes to: The parties involved in the import or export arrangement, the terms and conditions of any applicable contracts, the place of entry or exit, the transporters, the volumes accepted or offered, or the import or export price. Any notification filed under this section shall contain the FE docket number(s) to which it relates. Compliance with this section does not relieve an importer or exporter from responsibility to file the appropriate application to amend a previous import or export authorization under this part whenever such changes are contrary to or otherwise not permitted by the existing authorization.

Subpart E—Applications for Rehearing

§ 590.501 Filing.

(a) An application for rehearing of a final opinion and order, conditional order, or emergency interim order may be filed by any party aggrieved by the issuance of such opinion and order within thirty (30) days after issuance. The application shall be served on all parties.

(b) The application shall state concisely the alleged errors in the final opinion and order, conditional order, or emergency interim order and must set forth specifically the ground or grounds upon which the application is